IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

C.R. No.5088 of 2005

Date of Decision:11.9.2006.

Karnail Kaur & others

....Petitioners.

Versus

Gurdev Singh

...Respondent.

CORAM : Hon'ble Mr. Justice Surya Kant.

Present:- Mr.Sandeep Jasuja,Advocate
for the petitioners.

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SURYA KANT, J.(ORAL)

This revision petition has been preferred by the defendants against the order dated 7.12.2004 (Annexure P-1), whereby on account of non filing of written statement on their behalf by defendant No.6-their attorney, their defence was struck off, as well as the order dated 17.8.2005 (Annexure P-3) whereby the Learned Civil Judge (Jr. Division), Muktsar, dismissed the application moved by the petitioners for permission to file the written statement.

While issuing notice of motion, the following order was passed by this court on September 29,2005:-

> "Learned counsel for the petitioners contends that the defendants were earlier being represented by Giani Ram Singh, Advocate, who expired. Thereafter, Shri Sandeep Kumar Ahuja was engaged as a counsel in the trial Court who

despite best efforts could not get the brief of the case from the office of the earlier counsel who had died. In the circumstances, there occurred delay in the filing of written statement and on 7.12.2004 i.e. the date of passing the impugned order the counsel for the defendants was not well. An application dated 10.12.2004 (Annexure-P2) was filed which has been declined vide impugned order dated 17.8.2005.

Notice of motion to the respondent for 10.11.2005. Copy of the notice be given dasti.

Passing of the final order shall remain stayed till the adjourned date."

As per the office report, the service is complete. However, no one appears on behalf of the respondent/plaintiff.

After hearing learned counsel for the petitioners and for the reasons mentioned in the order dated 29.9.2005, reproduced above and keeping in view the stage of the proceedings in the suit, this revision petition is allowed. The impugned orders dated 7.12.2004 and 17.8.2005 are set aside and the petitioners are permitted to file the written statement on or before October 15,2006, subject to payment of Rs.2000/- as costs to the respondent/plaintiff.

Dasti.

(SURYA KANT)
JUDGE

Sept 11,2006.
Reema